

1-1 By: Taylor of Collin S.B. No. 515
 1-2 (In the Senate - Filed January 18, 2017; February 6, 2017,
 1-3 read first time and referred to Committee on Business & Commerce;
 1-4 March 23, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 6, Nays 2; March 23, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Hancock	X			
1-9 Creighton	X			
1-10 Campbell			X	
1-11 Estes	X			
1-12 Nichols	X			
1-13 Schwertner		X		
1-14 Taylor of Galveston	X			
1-15 Whitmire		X		
1-16 Zaffirini	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 515 By: Creighton

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the right of certain public officers to access public
 1-22 information, documents, records, and property; creating criminal
 1-23 offenses.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subtitle B, Title 6, Government Code, is amended
 1-26 by adding Chapter 674 to read as follows:

1-27 CHAPTER 674. RIGHT OF ACCESS TO PUBLIC INFORMATION, BUILDINGS, AND
 1-28 GROUPS BY APPOINTED STATE BOARD MEMBERS

1-29 SUBCHAPTER A. GENERAL PROVISIONS

1-30 Sec. 674.001. DEFINITIONS. In this chapter:

1-31 (1) "Board member" means a member of a body, including
 1-32 a board, commission, or committee:

1-33 (A) with more than one member;

1-34 (B) the members of which are appointed; and

1-35 (C) that supervises, manages, or controls a state
 1-36 governmental body.

1-37 (2) "Public information" has the meaning assigned by
 1-38 Section 552.002.

1-39 (3) "State governmental body" means a board,
 1-40 commission, department, committee, institution, agency, or office
 1-41 that is within the executive branch of state government. The term
 1-42 does not include a private entity that spends or is supported wholly
 1-43 or partly by public funds.

1-44 SUBCHAPTER B. RIGHT OF ACCESS TO INFORMATION

1-45 Sec. 674.051. RIGHT OF ACCESS TO INFORMATION. (a) This
 1-46 section does not apply to public information that is excepted from
 1-47 disclosure under:

1-48 (1) Section 552.108; or

1-49 (2) Section 552.119.

1-50 (b) A board member has a right of access to information that
 1-51 is public information of the state governmental body to which the
 1-52 member is appointed.

1-53 Sec. 674.052. PROVISION OF INFORMATION. (a) A state
 1-54 governmental body on request by a board member of the governmental
 1-55 body shall provide public information to which the member has a
 1-56 right of access, including confidential information or information
 1-57 otherwise excepted from disclosure, to the member in accordance
 1-58 with Chapter 552.

1-59 (b) A state governmental body, by providing public
 1-60 information under this section that is confidential or otherwise

2-1 excepted from disclosure under law, does not waive or affect the
 2-2 confidentiality of the information for purposes of state or federal
 2-3 law or waive the right of the governmental body to assert exceptions
 2-4 to disclosure of the information in the future.

2-5 Sec. 674.053. CONFIDENTIALITY AGREEMENT. (a) A state
 2-6 governmental body may require a board member requesting information
 2-7 under this subchapter or a designated employee of the requesting
 2-8 member who will view or handle information that is received under
 2-9 this subchapter and that is confidential or otherwise excepted from
 2-10 disclosure under law to sign a confidentiality agreement that
 2-11 covers the information and requires that:

2-12 (1) the information not be disclosed outside the
 2-13 office of the requesting member;

2-14 (2) the information be labeled as confidential;

2-15 (3) the information be kept securely; or

2-16 (4) the number of copies made of the information or the
 2-17 notes taken from the information that implicate the confidential
 2-18 nature of the information be controlled, with all copies or notes
 2-19 that are not destroyed or returned remaining confidential and
 2-20 subject to the confidentiality agreement.

2-21 (b) An individual required to sign a confidentiality
 2-22 agreement under Subsection (a) may seek a decision as provided by
 2-23 Section 674.054 about whether the information covered by the
 2-24 confidentiality agreement is confidential or otherwise excepted
 2-25 from disclosure under law. A confidentiality agreement signed
 2-26 under Subsection (a) is void to the extent that the agreement covers
 2-27 information that is finally determined under Section 674.054 to not
 2-28 be confidential or otherwise excepted from disclosure under law.

2-29 Sec. 674.054. DECISION BY ATTORNEY GENERAL REGARDING
 2-30 CONFIDENTIALITY OR DISCLOSURE. (a) A board member requesting
 2-31 information under this subchapter may seek a decision from the
 2-32 attorney general about whether the information covered by a
 2-33 confidentiality agreement under Section 674.053 is confidential or
 2-34 otherwise excepted from disclosure under law.

2-35 (b) The attorney general by rule shall establish procedures
 2-36 and deadlines for:

2-37 (1) receiving information necessary to determine
 2-38 whether the information covered by a confidentiality agreement is
 2-39 confidential or otherwise excepted from disclosure under law; and

2-40 (2) receiving briefs from a requesting board member, a
 2-41 state governmental body, and any other interested person.

2-42 (c) The attorney general shall render the decision not later
 2-43 than the 45th business day after the date the attorney general
 2-44 receives the request for a decision. If the attorney general is
 2-45 unable to issue the decision within the 45-day period, the attorney
 2-46 general may during that 45-day period extend the period for issuing
 2-47 the decision by an additional 10 business days by informing the
 2-48 requesting board member, the state governmental body, and any
 2-49 interested person who submitted necessary information or a brief to
 2-50 the attorney general of the reason for the delay.

2-51 (d) The attorney general shall issue a written decision and
 2-52 provide a copy of the decision to the requesting board member, the
 2-53 state governmental body, and any interested person who submitted
 2-54 necessary information or a brief to the attorney general under this
 2-55 section.

2-56 (e) The requesting board member or the state governmental
 2-57 body may appeal a decision of the attorney general under Subsection
 2-58 (d) to a district court. A person may appeal a decision of the
 2-59 attorney general under Subsection (d) to a district court if the
 2-60 person claims a proprietary interest in the information affected by
 2-61 the decision or a privacy interest in the information that a
 2-62 confidentiality law or judicial decision is designed to protect.

2-63 Sec. 674.055. EFFECT OF SUBCHAPTER. (a) This subchapter
 2-64 does not affect:

2-65 (1) the right of a board member to obtain information
 2-66 under other law;

2-67 (2) the procedures under which the information is
 2-68 obtained under other law; or

2-69 (3) the use that may be made of the information

3-1 obtained under other law.
3-2 (b) This subchapter does not grant authority to a state
3-3 governmental body to withhold information from a board member.

3-4 SUBCHAPTER C. RIGHT OF ACCESS TO PUBLIC PROPERTY

3-5 Sec. 674.101. RIGHT OF ACCESS TO PUBLIC PROPERTY.

3-6 (a) This section does not apply to:
3-7 (1) the office of another board member;
3-8 (2) a room that contains a criminal forensic
3-9 laboratory; or
3-10 (3) a room in which criminal evidence is stored.

3-11 (b) Notwithstanding any other provision of law and except as
3-12 provided by Subsection (a), a board member has a right of access to
3-13 any building, structure, room, land, or body of water owned or
3-14 leased by or under the exclusive control of the state governmental
3-15 body to which the member is appointed.

3-16 Sec. 674.102. ACCESS TO PROPERTY. (a) A person who is
3-17 authorized to control access to property described by Section
3-18 674.101(b) shall provide a board member of the state governmental
3-19 body access to the property if the member:

3-20 (1) requests access to the property as a board member;
3-21 and
3-22 (2) presents an acceptable form of identification
3-23 described by Section 63.0101, Election Code.

3-24 (b) The authorized person must provide access to property
3-25 under this section not later than the 10th business day following
3-26 the date the request for access is made by the requesting board
3-27 member.

3-28 SUBCHAPTER D. ENFORCEMENT

3-29 Sec. 674.151. DISTRIBUTION OR MISUSE OF CONFIDENTIAL
3-30 INFORMATION. (a) A person who is a recipient of confidential
3-31 information under Subchapter B commits an offense if the person
3-32 knowingly:

3-33 (1) permits inspection of the confidential
3-34 information by a person who is not authorized to inspect the
3-35 information; or
3-36 (2) discloses the confidential information to a person
3-37 who is not authorized to receive the information.

3-38 (b) An offense under this section is a misdemeanor
3-39 punishable by:

3-40 (1) a fine of not more than \$1,000;
3-41 (2) confinement in the county jail for not more than
3-42 six months; or
3-43 (3) both the fine and confinement.

3-44 (c) A violation under this section constitutes official
3-45 misconduct.

3-46 SECTION 2. Subtitle C, Title 6, Local Government Code, is
3-47 amended by adding Chapter 206 to read as follows:

3-48 CHAPTER 206. RIGHT OF ACCESS TO INFORMATION BY CERTAIN PUBLIC
3-49 OFFICERS

3-50 Sec. 206.001. DEFINITIONS. In this chapter:

3-51 (1) "County governmental body":
3-52 (A) means:
3-53 (i) a county commissioners court;
3-54 (ii) a deliberative body that has
3-55 rulemaking or quasi-judicial power and that is classified as a
3-56 department, agency, or political subdivision of a county;
3-57 (iii) a county board of school trustees;
3-58 (iv) a county board of education; or
3-59 (v) the part, section, or portion of a
3-60 county, county board of school trustees, or county board of
3-61 education described by Section 552.003(1)(A)(xii), Government
3-62 Code, that is a governmental body for purposes of Chapter 552,
3-63 Government Code; and

3-64 (B) does not include:
3-65 (i) the judiciary; or
3-66 (ii) a private entity that spends or is
3-67 supported wholly or partly by public funds.

3-68 (2) "County officer" means an elected or appointed
3-69 officer of a county governmental body.

4-1 (3) "Municipal governmental body":
4-2 (A) means:
4-3 (i) the governing body of a municipality;
4-4 (ii) a deliberative body that has
4-5 rulemaking or quasi-judicial power and that is classified as a
4-6 department, agency, or political subdivision of a municipality; or
4-7 (iii) the part, section, or portion of a
4-8 municipality described by Section 552.003(1)(A)(xii), Government
4-9 Code, that is a governmental body for purposes of Chapter 552,
4-10 Government Code; and
4-11 (B) does not include:
4-12 (i) the judiciary; or
4-13 (ii) a private entity that spends or is
4-14 supported wholly or partly by public funds.
4-15 (4) "Municipal officer" means an elected or appointed
4-16 officer of a municipal governmental body.
4-17 (5) "Public information" has the meaning assigned by
4-18 Section 552.002, Government Code.
4-19 (6) "Special district" means a political subdivision
4-20 of this state that has a limited geographic area and is created by
4-21 local law or under general law for a special purpose.
4-22 (7) "Special district officer" means a member of the
4-23 governing body of a special district.
4-24 Sec. 206.002. RIGHT OF ACCESS TO INFORMATION. (a) This
4-25 section does not apply to public information that is excepted from
4-26 disclosure under:
4-27 (1) Section 552.108, Government Code; or
4-28 (2) Section 552.119, Government Code.
4-29 (b) A county officer has a right of access to information
4-30 that is public information of the county governmental body to which
4-31 the county officer is elected or appointed.
4-32 (c) A municipal officer has a right of access to information
4-33 that is public information of the municipal governmental body to
4-34 which the municipal officer is elected or appointed.
4-35 (d) A special district officer has a right of access to
4-36 information that is public information of the district.
4-37 Sec. 206.003. PROVISION OF INFORMATION. (a) A county
4-38 governmental body on request by a county officer of the
4-39 governmental body, a municipal governmental body on request by a
4-40 municipal officer of the governmental body, or a special district
4-41 on request by a special district officer of the district shall
4-42 provide public information to which the officer has a right of
4-43 access, including confidential information or information
4-44 otherwise excepted from disclosure, to the officer in accordance
4-45 with Chapter 552, Government Code.
4-46 (b) A county governmental body, municipal governmental
4-47 body, or special district, by providing public information under
4-48 this section that is confidential or otherwise excepted from
4-49 disclosure under law, does not waive or affect the confidentiality
4-50 of the information for purposes of state or federal law or waive the
4-51 right of the governmental body or special district to assert
4-52 exceptions to disclosure of the information in the future.
4-53 Sec. 206.004. CONFIDENTIALITY AGREEMENT. (a) A county
4-54 governmental body, municipal governmental body, or special
4-55 district may require an officer requesting information under this
4-56 chapter or a designated employee of the requesting officer who will
4-57 view or handle information that is received under this chapter and
4-58 that is confidential or otherwise excepted from disclosure under
4-59 law to sign a confidentiality agreement that covers the information
4-60 and requires that:
4-61 (1) the information not be disclosed outside the
4-62 office of the requesting officer;
4-63 (2) the information be labeled as confidential;
4-64 (3) the information be kept securely; or
4-65 (4) the number of copies made of the information or the
4-66 notes taken from the information that implicate the confidential
4-67 nature of the information be controlled, with all copies or notes
4-68 that are not destroyed or returned remaining confidential and
4-69 subject to the confidentiality agreement.

5-1 (b) An individual required to sign a confidentiality
 5-2 agreement under Subsection (a) may seek a decision as provided by
 5-3 Section 206.005 about whether the information covered by the
 5-4 confidentiality agreement is confidential or otherwise excepted
 5-5 from disclosure under law. A confidentiality agreement signed
 5-6 under Subsection (a) is void to the extent that the agreement covers
 5-7 information that is finally determined under Section 206.005 to not
 5-8 be confidential or otherwise excepted from disclosure under law.

5-9 Sec. 206.005. DECISION BY ATTORNEY GENERAL REGARDING
 5-10 CONFIDENTIALITY OR DISCLOSURE. (a) An officer requesting
 5-11 information under this chapter may seek a decision from the
 5-12 attorney general about whether the information covered by a
 5-13 confidentiality agreement under Section 206.004 is confidential or
 5-14 otherwise excepted from disclosure under law.

5-15 (b) The attorney general by rule shall establish procedures
 5-16 and deadlines for:

5-17 (1) receiving information necessary to determine
 5-18 whether the information covered by a confidentiality agreement is
 5-19 confidential or otherwise excepted from disclosure under law; and

5-20 (2) receiving briefs from a requesting officer, a
 5-21 county governmental body, municipal governmental body, or special
 5-22 district, as applicable, and any other interested person.

5-23 (c) The attorney general shall render the decision not later
 5-24 than the 45th business day after the date the attorney general
 5-25 receives the request for a decision. If the attorney general is
 5-26 unable to issue the decision within the 45-day period, the attorney
 5-27 general may during that 45-day period extend the period for issuing
 5-28 the decision by an additional 10 business days by informing the
 5-29 requesting officer, the county governmental body, municipal
 5-30 governmental body, or special district, as applicable, and any
 5-31 interested person who submitted necessary information or a brief to
 5-32 the attorney general of the reason for the delay.

5-33 (d) The attorney general shall issue a written decision and
 5-34 provide a copy of the decision to the requesting officer, the county
 5-35 governmental body, municipal governmental body, or special
 5-36 district, as applicable, and any interested person who submitted
 5-37 necessary information or a brief to the attorney general under this
 5-38 section.

5-39 (e) The requesting officer or the county governmental body,
 5-40 municipal governmental body, or special district, as applicable,
 5-41 may appeal a decision of the attorney general under Subsection (d)
 5-42 to a district court. A person may appeal a decision of the attorney
 5-43 general under Subsection (d) to a district court if the person
 5-44 claims a proprietary interest in the information affected by the
 5-45 decision or a privacy interest in the information that a
 5-46 confidentiality law or judicial decision is designed to protect.

5-47 Sec. 206.006. DISTRIBUTION OR MISUSE OF CONFIDENTIAL
 5-48 INFORMATION. (a) A person who is a recipient of confidential
 5-49 information under this chapter commits an offense if the person
 5-50 knowingly:

5-51 (1) permits inspection of the confidential
 5-52 information by a person who is not authorized to inspect the
 5-53 information; or

5-54 (2) discloses the confidential information to a person
 5-55 who is not authorized to receive the information.

5-56 (b) An offense under this section is a misdemeanor
 5-57 punishable by:

5-58 (1) a fine of not more than \$1,000;

5-59 (2) confinement in the county jail for not more than
 5-60 six months; or

5-61 (3) both the fine and confinement.

5-62 (c) A violation under this section constitutes official
 5-63 misconduct.

5-64 Sec. 206.007. EFFECT OF CHAPTER. (a) This chapter does
 5-65 not affect:

5-66 (1) the right of a county officer, municipal officer,
 5-67 or special district officer to obtain information under other law;

5-68 (2) the procedures under which the information is
 5-69 obtained under other law; or

6-1 (3) the use that may be made of the information
6-2 obtained under other law.

6-3 (b) This chapter does not grant authority to a county
6-4 governmental body, municipal governmental body, or special
6-5 district to withhold information from a county officer, municipal
6-6 officer, or special district officer.

6-7 SECTION 3. The heading to Subtitle C, Title 9, Local
6-8 Government Code, is amended to read as follows:

6-9 SUBTITLE C. PUBLIC BUILDINGS AND GROUNDS [~~BUILDING~~] PROVISIONS
6-10 APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

6-11 SECTION 4. The heading to Chapter 305, Local Government
6-12 Code, is amended to read as follows:

6-13 CHAPTER 305. MISCELLANEOUS PUBLIC BUILDINGS AND GROUNDS [~~BUILDING~~]
6-14 PROVISIONS [~~AFFECTING MUNICIPALITIES AND COUNTIES~~]

6-15 SECTION 5. Chapter 305, Local Government Code, is amended
6-16 by adding Subchapter C to read as follows:

6-17 SUBCHAPTER C. RIGHT OF ACCESS TO PUBLIC PROPERTY BY CERTAIN PUBLIC
6-18 OFFICERS

6-19 Sec. 305.021. DEFINITION. In this subchapter, "political
6-20 subdivision" means a county, municipality, school district, junior
6-21 college district, other special district, or other subdivision of
6-22 state government.

6-23 Sec. 305.022. RIGHT OF ACCESS TO PUBLIC PROPERTY.

6-24 (a) This section does not apply to:

6-25 (1) the office of another member of the governing body
6-26 of the political subdivision;

6-27 (2) a room that contains a criminal forensic
6-28 laboratory; or

6-29 (3) a room in which criminal evidence is stored.

6-30 (b) Notwithstanding any other provision of law and except as
6-31 provided by Subsection (a), a member of the governing body of a
6-32 political subdivision has a right of access to any building,
6-33 structure, room, land, or body of water owned or leased by or under
6-34 the exclusive control of the political subdivision to which the
6-35 member is elected or appointed.

6-36 Sec. 305.023. ACCESS TO PROPERTY. (a) A person who is
6-37 authorized to control access to property described by Section
6-38 305.022(b) shall provide a member of the governing body of the
6-39 political subdivision access to the property if the member:

6-40 (1) requests access to the property as a member of the
6-41 governing body; and

6-42 (2) presents an acceptable form of identification
6-43 described by Section 63.0101, Election Code.

6-44 (b) The authorized person must provide access to property
6-45 under this section not later than the 10th business day following
6-46 the date the request for access is made by the requesting member of
6-47 the governing body.

6-48 SECTION 6. Not later than January 1, 2018, the attorney
6-49 general shall adopt rules establishing the procedures and deadlines
6-50 required by Section 674.054(b), Government Code, as added by this
6-51 Act, and Section 206.005(b), Local Government Code, as added by
6-52 this Act.

6-53 SECTION 7. Subchapter B, Chapter 674, Government Code, as
6-54 added by this Act, and Chapter 206, Local Government Code, as added
6-55 by this Act, apply only to a request for information received on or
6-56 after the effective date of this Act. A request for information
6-57 received before the effective date of this Act is governed by the
6-58 applicable law in effect immediately before the effective date of
6-59 this Act, and that law is continued in effect for that purpose.

6-60 SECTION 8. (a) Except as provided by Subsection (b) of
6-61 this section, this Act takes effect January 1, 2018.

6-62 (b) Section 6 of this Act takes effect immediately if this
6-63 Act receives a vote of two-thirds of all the members elected to each
6-64 house, as provided by Section 39, Article III, Texas Constitution.
6-65 If this Act does not receive the vote necessary for immediate
6-66 effect, Section 6 of this Act takes effect September 1, 2017.

6-67

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